

113TH CONGRESS
1ST SESSION

H. R. 367

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2013

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Regulations From the
3 Executive in Need of Scrutiny Act of 2013”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to increase accountability
6 for and transparency in the Federal regulatory process.
7 Section 1 of article I of the United States Constitution
8 grants all legislative powers to Congress. Over time, Con-
9 gress has excessively delegated its constitutional charge
10 while failing to conduct appropriate oversight and retain
11 accountability for the content of the laws it passes. By
12 requiring a vote in Congress, the REINS Act will result
13 in more carefully drafted and detailed legislation, an im-
14 proved regulatory process, and a legislative branch that
15 is truly accountable to the American people for the laws
16 imposed upon them. Moreover, as a tax on carbon emis-
17 sions increases energy costs on consumers, reduces eco-
18 nomic growth and is therefore detrimental to individuals,
19 families and businesses, the REINS Act includes in the
20 definition of a major rule, any rule that implements or
21 provides for the imposition or collection of a tax on carbon
22 emissions.

23 **SEC. 3. CONGRESSIONAL REVIEW OF AGENCY RULE-**
24 **MAKING.**

25 Chapter 8 of title 5, United States Code, is amended
26 to read as follows:

1 **“CHAPTER 8—CONGRESSIONAL REVIEW**
 2 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

3 **“§ 801. Congressional review**

4 “(a)(1)(A) Before a rule may take effect, the Federal
 5 agency promulgating such rule shall submit to each House
 6 of the Congress and to the Comptroller General a report
 7 containing—

8 “(i) a copy of the rule;

9 “(ii) a concise general statement relating to the
 10 rule;

11 “(iii) a classification of the rule as a major or
 12 nonmajor rule, including an explanation of the clas-
 13 sification specifically addressing each criteria for a
 14 major rule contained within clauses (i) through (iii)
 15 of section 804(2)(A) or within section 804(2)(B);

16 “(iv) a list of any other related regulatory ac-
 17 tions taken by or that will be taken by the Federal
 18 agency promulgating the rule that are intended to
 19 implement the same statutory provision or regu-
 20 latory objective as well as the individual and aggre-
 21 gate economic effects of those actions;

1 “(v) a list of any other related regulatory ac-
2 tions taken by or that will be taken by any other
3 Federal agency with authority to implement the
4 same statutory provision or regulatory objective that
5 are intended to implement such provision or objec-
6 tive, of which the Federal agency promulgating the
7 rule is aware, as well as the individual and aggre-
8 gate economic effects of those actions; and

9 “(vi) the proposed effective date of the rule.

10 “(B) On the date of the submission of the report
11 under subparagraph (A), the Federal agency promulgating
12 the rule shall submit to the Comptroller General and make
13 available to each House of Congress—

14 “(i) a complete copy of the cost-benefit analysis
15 of the rule, if any, including an analysis of any jobs
16 added or lost, differentiating between public and pri-
17 vate sector jobs;

18 “(ii) the agency’s actions pursuant to sections
19 603, 604, 605, 607, and 609 of this title;

20 “(iii) the agency’s actions pursuant to sections
21 202, 203, 204, and 205 of the Unfunded Mandates
22 Reform Act of 1995; and

23 “(iv) any other relevant information or require-
24 ments under any other Act and any relevant Execu-
25 tive orders.

1 “(C) Upon receipt of a report submitted under sub-
2 paragraph (A), each House shall provide copies of the re-
3 port to the chairman and ranking member of each stand-
4 ing committee with jurisdiction under the rules of the
5 House of Representatives or the Senate to report a bill
6 to amend the provision of law under which the rule is
7 issued.

8 “(2)(A) The Comptroller General shall provide a re-
9 port on each major rule to the committees of jurisdiction
10 by the end of 15 calendar days after the submission or
11 publication date. The report of the Comptroller General
12 shall include an assessment of the agency’s compliance
13 with procedural steps required by paragraph (1)(B) and
14 an assessment of whether the major rule imposes any new
15 limits or mandates on private-sector activity.

16 “(B) Federal agencies shall cooperate with the Comp-
17 troller General by providing information relevant to the
18 Comptroller General’s report under subparagraph (A).

19 “(3) A major rule relating to a report submitted
20 under paragraph (1) shall take effect upon enactment of
21 a joint resolution of approval described in section 802 or
22 as provided for in the rule following enactment of a joint
23 resolution of approval described in section 802, whichever
24 is later.

1 “(4) A nonmajor rule shall take effect as provided
2 by section 803 after submission to Congress under para-
3 graph (1).

4 “(5) If a joint resolution of approval relating to a
5 major rule is not enacted within the period provided in
6 subsection (b)(2), then a joint resolution of approval relat-
7 ing to the same rule may not be considered under this
8 chapter in the same Congress by either the House of Rep-
9 resentatives or the Senate.

10 “(b)(1) A major rule shall not take effect unless the
11 Congress enacts a joint resolution of approval described
12 under section 802.

13 “(2) If a joint resolution described in subsection (a)
14 is not enacted into law by the end of 70 session days or
15 legislative days, as applicable, beginning on the date on
16 which the report referred to in section 801(a)(1)(A) is re-
17 ceived by Congress (excluding days either House of Con-
18 gress is adjourned for more than 3 days during a session
19 of Congress), then the rule described in that resolution
20 shall be deemed not to be approved and such rule shall
21 not take effect.

22 “(c)(1) Notwithstanding any other provision of this
23 section (except subject to paragraph (3)), a major rule
24 may take effect for one 90-calendar-day period if the
25 President makes a determination under paragraph (2) and

1 submits written notice of such determination to the Con-
2 gress.

3 “(2) Paragraph (1) applies to a determination made
4 by the President by Executive order that the major rule
5 should take effect because such rule is—

6 “(A) necessary because of an imminent threat
7 to health or safety or other emergency;

8 “(B) necessary for the enforcement of criminal
9 laws;

10 “(C) necessary for national security; or

11 “(D) issued pursuant to any statute imple-
12 menting an international trade agreement.

13 “(3) An exercise by the President of the authority
14 under this subsection shall have no effect on the proce-
15 dures under section 802.

16 “(d)(1) In addition to the opportunity for review oth-
17 erwise provided under this chapter, in the case of any rule
18 for which a report was submitted in accordance with sub-
19 section (a)(1)(A) during the period beginning on the date
20 occurring—

21 “(A) in the case of the Senate, 60 session days,
22 or

23 “(B) in the case of the House of Representa-
24 tives, 60 legislative days,

1 before the date the Congress is scheduled to adjourn a
2 session of Congress through the date on which the same
3 or succeeding Congress first convenes its next session, sec-
4 tions 802 and 803 shall apply to such rule in the suc-
5 ceeding session of Congress.

6 “(2)(A) In applying sections 802 and 803 for pur-
7 poses of such additional review, a rule described under
8 paragraph (1) shall be treated as though—

9 “(i) such rule were published in the Federal
10 Register on—

11 “(I) in the case of the Senate, the 15th
12 session day, or

13 “(II) in the case of the House of Rep-
14 resentatives, the 15th legislative day,
15 after the succeeding session of Congress first con-
16 venes; and

17 “(ii) a report on such rule were submitted to
18 Congress under subsection (a)(1) on such date.

19 “(B) Nothing in this paragraph shall be construed
20 to affect the requirement under subsection (a)(1) that a
21 report shall be submitted to Congress before a rule can
22 take effect.

23 “(3) A rule described under paragraph (1) shall take
24 effect as otherwise provided by law (including other sub-
25 sections of this section).

1 **“§ 802. Congressional approval procedure for major**
2 **rules**

3 “(a)(1) For purposes of this section, the term ‘joint
4 resolution’ means only a joint resolution addressing a re-
5 port classifying a rule as major pursuant to section
6 801(a)(1)(A)(iii) that—

7 “(A) bears no preamble;

8 “(B) bears the following title (with blanks filled
9 as appropriate): ‘Approving the rule submitted by
10 _____ relating to _____.’;

11 “(C) includes after its resolving clause only the
12 following (with blanks filled as appropriate): ‘That
13 Congress approves the rule submitted by _____ re-
14 lating to _____.’; and

15 “(D) is introduced pursuant to paragraph (2).

16 “(2) After a House of Congress receives a report
17 classifying a rule as major pursuant to section
18 801(a)(1)(A)(iii), the majority leader of that House (or
19 his or her respective designee) shall introduce (by request,
20 if appropriate) a joint resolution described in paragraph
21 (1)—

22 “(A) in the case of the House of Representa-
23 tives, within three legislative days; and

24 “(B) in the case of the Senate, within three ses-
25 sion days.

1 “(3) A joint resolution described in paragraph (1)
2 shall not be subject to amendment at any stage of pro-
3 ceeding.

4 “(b) A joint resolution described in subsection (a)
5 shall be referred in each House of Congress to the commit-
6 tees having jurisdiction over the provision of law under
7 which the rule is issued.

8 “(c) In the Senate, if the committee or committees
9 to which a joint resolution described in subsection (a) has
10 been referred have not reported it at the end of 15 session
11 days after its introduction, such committee or committees
12 shall be automatically discharged from further consider-
13 ation of the resolution and it shall be placed on the cal-
14 endar. A vote on final passage of the resolution shall be
15 taken on or before the close of the 15th session day after
16 the resolution is reported by the committee or committees
17 to which it was referred, or after such committee or com-
18 mittees have been discharged from further consideration
19 of the resolution.

20 “(d)(1) In the Senate, when the committee or com-
21 mittees to which a joint resolution is referred have re-
22 ported, or when a committee or committees are discharged
23 (under subsection (c)) from further consideration of a
24 joint resolution described in subsection (a), it is at any
25 time thereafter in order (even though a previous motion

1 to the same effect has been disagreed to) for a motion
2 to proceed to the consideration of the joint resolution, and
3 all points of order against the joint resolution (and against
4 consideration of the joint resolution) are waived. The mo-
5 tion is not subject to amendment, or to a motion to post-
6 pone, or to a motion to proceed to the consideration of
7 other business. A motion to reconsider the vote by which
8 the motion is agreed to or disagreed to shall not be in
9 order. If a motion to proceed to the consideration of the
10 joint resolution is agreed to, the joint resolution shall re-
11 main the unfinished business of the Senate until disposed
12 of.

13 “(2) In the Senate, debate on the joint resolution,
14 and on all debatable motions and appeals in connection
15 therewith, shall be limited to not more than 2 hours, which
16 shall be divided equally between those favoring and those
17 opposing the joint resolution. A motion to further limit
18 debate is in order and not debatable. An amendment to,
19 or a motion to postpone, or a motion to proceed to the
20 consideration of other business, or a motion to recommit
21 the joint resolution is not in order.

22 “(3) In the Senate, immediately following the conclu-
23 sion of the debate on a joint resolution described in sub-
24 section (a), and a single quorum call at the conclusion of
25 the debate if requested in accordance with the rules of the

1 Senate, the vote on final passage of the joint resolution
2 shall occur.

3 “(4) Appeals from the decisions of the Chair relating
4 to the application of the rules of the Senate to the proce-
5 dure relating to a joint resolution described in subsection
6 (a) shall be decided without debate.

7 “(e) In the House of Representatives, if any com-
8 mittee to which a joint resolution described in subsection
9 (a) has been referred has not reported it to the House
10 at the end of 15 legislative days after its introduction,
11 such committee shall be discharged from further consider-
12 ation of the joint resolution, and it shall be placed on the
13 appropriate calendar. On the second and fourth Thursdays
14 of each month it shall be in order at any time for the
15 Speaker to recognize a Member who favors passage of a
16 joint resolution that has appeared on the calendar for at
17 least 5 legislative days to call up that joint resolution for
18 immediate consideration in the House without intervention
19 of any point of order. When so called up a joint resolution
20 shall be considered as read and shall be debatable for 1
21 hour equally divided and controlled by the proponent and
22 an opponent, and the previous question shall be considered
23 as ordered to its passage without intervening motion. It
24 shall not be in order to reconsider the vote on passage.
25 If a vote on final passage of the joint resolution has not

1 been taken by the third Thursday on which the Speaker
2 may recognize a Member under this subsection, such vote
3 shall be taken on that day.

4 “(f)(1) If, before passing a joint resolution described
5 in subsection (a), one House receives from the other a
6 joint resolution having the same text, then—

7 “(A) the joint resolution of the other House
8 shall not be referred to a committee; and

9 “(B) the procedure in the receiving House shall
10 be the same as if no joint resolution had been re-
11 ceived from the other House until the vote on pas-
12 sage, when the joint resolution received from the
13 other House shall supplant the joint resolution of
14 the receiving House.

15 “(2) This subsection shall not apply to the House of
16 Representatives if the joint resolution received from the
17 Senate is a revenue measure.

18 “(g) If either House has not taken a vote on final
19 passage of the joint resolution by the last day of the period
20 described in section 801(b)(2), then such vote shall be
21 taken on that day.

22 “(h) This section and section 803 are enacted by
23 Congress—

24 “(1) as an exercise of the rulemaking power of
25 the Senate and House of Representatives, respec-

1 tively, and as such is deemed to be part of the rules
2 of each House, respectively, but applicable only with
3 respect to the procedure to be followed in that
4 House in the case of a joint resolution described in
5 subsection (a) and superseding other rules only
6 where explicitly so; and

7 “(2) with full recognition of the Constitutional
8 right of either House to change the rules (so far as
9 they relate to the procedure of that House) at any
10 time, in the same manner and to the same extent as
11 in the case of any other rule of that House.

12 **“§ 803. Congressional disapproval procedure for**
13 **nonmajor rules**

14 “(a) For purposes of this section, the term ‘joint res-
15 olution’ means only a joint resolution introduced in the
16 period beginning on the date on which the report referred
17 to in section 801(a)(1)(A) is received by Congress and
18 ending 60 days thereafter (excluding days either House
19 of Congress is adjourned for more than 3 days during a
20 session of Congress), the matter after the resolving clause
21 of which is as follows: ‘That Congress disapproves the
22 nonmajor rule submitted by the _____ relating to
23 _____, and such rule shall have no force or effect.’ (The
24 blank spaces being appropriately filled in).

1 “(b) A joint resolution described in subsection (a)
2 shall be referred to the committees in each House of Con-
3 gress with jurisdiction.

4 “(c) In the Senate, if the committee to which is re-
5 ferred a joint resolution described in subsection (a) has
6 not reported such joint resolution (or an identical joint
7 resolution) at the end of 15 session days after the date
8 of introduction of the joint resolution, such committee may
9 be discharged from further consideration of such joint res-
10 olution upon a petition supported in writing by 30 Mem-
11 bers of the Senate, and such joint resolution shall be
12 placed on the calendar.

13 “(d)(1) In the Senate, when the committee to which
14 a joint resolution is referred has reported, or when a com-
15 mittee is discharged (under subsection (c)) from further
16 consideration of a joint resolution described in subsection
17 (a), it is at any time thereafter in order (even though a
18 previous motion to the same effect has been disagreed to)
19 for a motion to proceed to the consideration of the joint
20 resolution, and all points of order against the joint resolu-
21 tion (and against consideration of the joint resolution) are
22 waived. The motion is not subject to amendment, or to
23 a motion to postpone, or to a motion to proceed to the
24 consideration of other business. A motion to reconsider the
25 vote by which the motion is agreed to or disagreed to shall

1 not be in order. If a motion to proceed to the consideration
2 of the joint resolution is agreed to, the joint resolution
3 shall remain the unfinished business of the Senate until
4 disposed of.

5 “(2) In the Senate, debate on the joint resolution,
6 and on all debatable motions and appeals in connection
7 therewith, shall be limited to not more than 10 hours,
8 which shall be divided equally between those favoring and
9 those opposing the joint resolution. A motion to further
10 limit debate is in order and not debatable. An amendment
11 to, or a motion to postpone, or a motion to proceed to
12 the consideration of other business, or a motion to recom-
13 mit the joint resolution is not in order.

14 “(3) In the Senate, immediately following the conclu-
15 sion of the debate on a joint resolution described in sub-
16 section (a), and a single quorum call at the conclusion of
17 the debate if requested in accordance with the rules of the
18 Senate, the vote on final passage of the joint resolution
19 shall occur.

20 “(4) Appeals from the decisions of the Chair relating
21 to the application of the rules of the Senate to the proce-
22 dure relating to a joint resolution described in subsection
23 (a) shall be decided without debate.

1 “(e) In the Senate the procedure specified in sub-
2 section (e) or (d) shall not apply to the consideration of
3 a joint resolution respecting a nonmajor rule—

4 “(1) after the expiration of the 60 session days
5 beginning with the applicable submission or publica-
6 tion date, or

7 “(2) if the report under section 801(a)(1)(A)
8 was submitted during the period referred to in sec-
9 tion 801(d)(1), after the expiration of the 60 session
10 days beginning on the 15th session day after the
11 succeeding session of Congress first convenes.

12 “(f) If, before the passage by one House of a joint
13 resolution of that House described in subsection (a), that
14 House receives from the other House a joint resolution
15 described in subsection (a), then the following procedures
16 shall apply:

17 “(1) The joint resolution of the other House
18 shall not be referred to a committee.

19 “(2) With respect to a joint resolution described
20 in subsection (a) of the House receiving the joint
21 resolution—

22 “(A) the procedure in that House shall be
23 the same as if no joint resolution had been re-
24 ceived from the other House; but

1 “(B) the vote on final passage shall be on
2 the joint resolution of the other House.

3 **“§ 804. Definitions**

4 “For purposes of this chapter—

5 “(1) The term ‘Federal agency’ means any
6 agency as that term is defined in section 551(1).

7 “(2) The term ‘major rule’ means any rule, in-
8 cluding an interim final rule, that the Administrator
9 of the Office of Information and Regulatory Affairs
10 of the Office of Management and Budget finds—

11 “(A) has resulted in or is likely to result
12 in—

13 “(i) an annual effect on the economy
14 of \$50,000,000 or more;

15 “(ii) a major increase in costs or
16 prices for consumers, individual industries,
17 Federal, State, or local government agen-
18 cies, or geographic regions; or

19 “(iii) significant adverse effects on
20 competition, employment, investment, pro-
21 ductivity, innovation, or on the ability of
22 United States-based enterprises to compete
23 with foreign-based enterprises in domestic
24 and export markets; or

1 “(B) is made by the Administrator of the
2 Environmental Protection Agency and that
3 would have a significant impact on a substan-
4 tial number of agricultural entities, as deter-
5 mined by the Secretary of Agriculture (who
6 shall publish such determination in the Federal
7 Register);

8 “(C) is a rule that implements or provides
9 for the imposition or collection of a carbon tax;
10 or

11 “(D) is made under the Patient Protection
12 and Affordable Care Act (Public Law 111-
13 148).

14 “(3) The term ‘nonmajor rule’ means any rule
15 that is not a major rule.

16 “(4) The term ‘rule’ has the meaning given
17 such term in section 551, except that such term does
18 not include any rule of particular applicability, in-
19 cluding a rule that approves or prescribes for the fu-
20 ture rates, wages, prices, services, or allowances
21 therefore, corporate or financial structures, reorga-
22 nizations, mergers, or acquisitions thereof, or ac-
23 counting practices or disclosures bearing on any of
24 the foregoing.

1 “(5) The term ‘submission date or publication
2 date’, except as otherwise provided in this chapter,
3 means—

4 “(A) in the case of a major rule, the date
5 on which the Congress receives the report sub-
6 mitted under section 801(a)(1); and

7 “(B) in the case of a nonmajor rule, the
8 later of—

9 “(i) the date on which the Congress
10 receives the report submitted under section
11 801(a)(1); and

12 “(ii) the date on which the nonmajor
13 rule is published in the Federal Register, if
14 so published.

15 “(6) The term ‘agricultural entity’ means any
16 entity involved in or related to agricultural enter-
17 prise, including enterprises that are engaged in the
18 business of production of food and fiber, ranching
19 and raising of livestock, aquaculture, and all other
20 farming and agricultural related industries.

21 “(7) The term ‘carbon tax’ means a fee, levy,
22 or price on—

23 “(A) emissions, including carbon dioxide
24 emissions generated by the burning of coal, nat-
25 ural gas, or oil; or

1 “(B) coal, natural gas, or oil based on
2 emissions, including carbon dioxide emissions
3 that would be generated through the fuel’s com-
4 bustion.

5 **“§ 805. Judicial review**

6 “(a) No determination, finding, action, or omission
7 under this chapter shall be subject to judicial review.

8 “(b) Notwithstanding subsection (a), a court may de-
9 termine whether a Federal agency has completed the nec-
10 essary requirements under this chapter for a rule to take
11 effect.

12 “(c) The enactment of a joint resolution of approval
13 under section 802 shall not be interpreted to serve as a
14 grant or modification of statutory authority by Congress
15 for the promulgation of a rule, shall not extinguish or af-
16 fect any claim, whether substantive or procedural, against
17 any alleged defect in a rule, and shall not form part of
18 the record before the court in any judicial proceeding con-
19 cerning a rule except for purposes of determining whether
20 or not the rule is in effect.

21 **“§ 806. Exemption for monetary policy**

22 “Nothing in this chapter shall apply to rules that con-
23 cern monetary policy proposed or implemented by the
24 Board of Governors of the Federal Reserve System or the
25 Federal Open Market Committee.

1 **“§ 807. Effective date of certain rules**

2 “Notwithstanding section 801—

3 “(1) any rule that establishes, modifies, opens,
4 closes, or conducts a regulatory program for a com-
5 mercial, recreational, or subsistence activity related
6 to hunting, fishing, or camping; or

7 “(2) any rule other than a major rule which an
8 agency for good cause finds (and incorporates the
9 finding and a brief statement of reasons therefore in
10 the rule issued) that notice and public procedure
11 thereon are impracticable, unnecessary, or contrary
12 to the public interest,

13 shall take effect at such time as the Federal agency pro-
14 mulgating the rule determines.”.

15 **SEC. 4. BUDGETARY EFFECTS OF RULES SUBJECT TO SEC-**
16 **TION 802 OF TITLE 5, UNITED STATES CODE.**

17 Section 257(b)(2) of the Balanced Budget and Emer-
18 gency Deficit Control Act of 1985 is amended by adding
19 at the end the following new subparagraph:

20 “(E) BUDGETARY EFFECTS OF RULES
21 SUBJECT TO SECTION 802 OF TITLE 5, UNITED
22 STATES CODE.—Any rules subject to the con-
23 gressional approval procedure set forth in sec-
24 tion 802 of chapter 8 of title 5, United States
25 Code, affecting budget authority, outlays, or re-
26 ceipts shall be assumed to be effective unless it

1 is not approved in accordance with such sec-
2 tion.”.

3 **SEC. 5. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF**
4 **RULES.**

5 (a) IN GENERAL.—The Comptroller General of the
6 United States shall conduct a study to determine, as of
7 the date of the enactment of this Act—

8 (1) how many rules (as such term is defined in
9 section 804 of title 5, United States Code) were in
10 effect;

11 (2) how many major rules (as such term is de-
12 fined in section 804 of title 5, United States Code)
13 were in effect; and

14 (3) the total estimated economic cost imposed
15 by all such rules.

16 (b) REPORT.—Not later than one year after the date
17 of the enactment of this Act, the Comptroller General of
18 the United States shall submit a report to Congress that
19 contains the findings of the study conducted under sub-
20 section (a).

Passed the House of Representatives August 2,
2013.

Attest:

KAREN L. HAAS,

Clerk.